

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

IN RE: ETHICON, INC. PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL No. 2327
THIS DOCUMENT RELATES TO ALL CASES	JOSEPH R. GOODWIN U.S. DISTRICT JUDGE

**RESPONSES AND OBJECTIONS TO PLAINTIFFS’
“NOTICE OF CONTINUATION TO TAKE VIDEO DEPOSITION
OF MARTY WEISBERG” AND
ACCOMPANYING REQUEST FOR PRODUCTION OF DOCUMENTS**

Defendants Ethicon, Inc. (“Ethicon”) and Johnson & Johnson (“J&J”) (collectively, “Defendants”) hereby respond and object to Plaintiffs’ “Notice of Continuation to Take Video Deposition of Marty Weisberg” (the “Notice”). The Notice was filed and served on June 18, 2013, and the continuation of deposition of Mr. Weisberg is noticed for August 9, 2013. The Notice is attached hereto as Exhibit 1.

The responses and objections contained herein are made without in any way waiving or intending to waive—but on the contrary reserving and intending to reserve—the right at any time to revise, supplement, correct, or add to these objections and responses. Defendants note that no documents have been withheld from production on the basis of the objections set forth in this Response unless expressly stated.

Defendants generally object to the specific requests to produce contained in the Notice. Plaintiffs have repeatedly requested materials that would impose a much greater burden on Defendants than is required by the agreed-upon Defendants’ Fact Sheet. Defendants have

corresponded with Plaintiff's counsel on this topic. Defendants object to the broad scope of the requests to produce attached to this Notice. These broad requests go far beyond the case-specific depositions and related discovery authorized in Pre-Trial Order 33.

**SPECIFIC RESPONSES AND OBJECTIONS
TO NOTICE AND REQUESTS TO PRODUCE**

Document Request No. 1: All documents relied upon by the deponent in preparing for this deposition.

Responses and Objections to Document Request No. 1: Defendants object that this request seeks information protected by the attorney work product doctrine. *See, e.g., Hickman v. Taylor*, 329 U.S. 495, 511 (1947); *In re Allen*, 106 F.3d 582, 608 (4th Cir. 1997) (observing that “choice and arrangement [of documents in witness’s personnel file by counsel for witness] constitutes opinion work product because [counsel’s] selection and compilation of these particular documents reveals her thought processes and theories regarding this litigation”); *Rhodes v. E.I du Pont de Nemours & Co.*, 558 F. Supp. 2d 660, 671 (S.D. W. Va. 2008) (Goodwin, C.J.) (“Courts acknowledge that the document selection process represents the mental impressions of the party’s counsel and is protected work product.” (internal quotation marks and alterations omitted)). Subject to and without waiving any objection, Defendants note that each and every document relied upon by the deponent in preparing for this deposition has already been produced to Plaintiff.

Document Request No. 2: Deponent’s most recent resume or curriculum vitae.

Responses and Objections to Document Request No. 2: Defendants have provided Plaintiffs a copy of the deponent's current resume.

Document Request No. 3: A copy of deponent's personnel file.

Responses and Objections to Document Request No. 3: Defendants have provided Plaintiffs a copy of the deponent's personnel file.

Document Request No. 4: All documents relating to the TVT products that are in the deponent's personal possession, meaning documents stored or maintained in the deponent's dwelling, home, garage, or any other property owned, rented, leased, maintained or lived in by defendant as well as any documents or electronic media related to the TVT products which is stored or maintained on the defendant's personal property including but not limited to, personal computers, cell phones, flash drives, or any potable storage media device.

Responses and Objections to Document Request No. 4: Defendants object to this request as overly broad and as not reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection, defendants have a reasonable and good faith belief that responsive documents, if any, would have been identified in connection with the collection process and would have been or will be produced. To the extent that additional documents, if any, are identified during the process of preparing for scheduled depositions, Defendants will make a good faith effort to produce such responsive, non-privileged documents in advance of the deposition.

Document Request No. 5: All documents, notes, videos, or other information relating to

TVT products that the deponent sponsored, supported, edited, posted, and/or linked websites, FaceBook pages, MySpace pages, Twitter pages, Wikipedia, or pages on any other websites.

Responses and Objections to Document Request No. 5: Defendants object to this request as overly broad and as not reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection, defendants have a reasonable and good faith belief that responsive documents, if any, would have been identified in connection with the collection process and would have been or will be produced. To the extent that additional documents, if any, are identified during the process of preparing for scheduled depositions, Defendants will make a good faith effort to produce such responsive, non-privileged documents in advance of the deposition.

ETHICON, INC. AND
JOHNSON & JOHNSON

/s/ David B. Thomas

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CERTIFICATE OF SERVICE

I, David B. Thomas, certify that on June 21 2013, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

/s/ David B. Thomas

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